



Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

2206.64630

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on December 29, 2005

Signature

Typed or printed name  
Patrick G. Burns

Application Number

09/855,989

Filed

May 15, 2001

First Named Inventor

Edward D. Brill

Art Unit

3724

Examiner

Prone, Jason D.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)☒ attorney or agent of record. 29,367  
Registration number☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

Signature

Patrick G. Burns

Typed or printed name

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Telephone number

December 29, 2005

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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2206.64630

## PATENT APPLICATION

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Edward D. Brill  
Serial No.: 09/855,989  
Conf. No.: 9366  
Filed: 05/15/2001  
For: VIBRATOR MOTOR  
Art Unit: 3724  
Examiner: Jason D. Prone

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29 Dec 05   
Date Registration No. 29,367  
Attorney for Applicant(s)

### REASONS FOR PRE-APPEAL REVIEW

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The pending claims of the present application stand rejected on the basis of Pfenning U.S.P.N. 3,735,297, in combination with various other references. Applicants request review of these rejections because (1) Pfenning is not analogous art, and (2) there is no motivation or suggestion to combine Pfenning with the other cited reference.

A June 5, 2003 rejection based in part on Pfenning was withdrawn in a March 17, 2004 office action. Pfenning was not used in an August 6, 2004 office action, a January 25, 2005 office action, or a June 3, 2005 office action, but was brought back in the most recent rejection, mailed September 29, 2005. For these reasons, applicants feel that pre-appeal review is appropriate in this case.

A relay is not in the field of a vibrator motor. A relay is not a motor because a relay does not drive a workload. It merely makes and breaks electrical contacts. In addition, a relay does not operate continuously like a motor, and it only operates in response to command signals. In contrast, a motor operates continuously whenever power is applied. Moreover, vibrator motors are classified in U.S. 310 and relays are classified in U.S. 335. For these reasons, Pfenning is not in the field of endeavor of the present invention.

FIG. 1 is a cross-sectional view of a medical device, likely a catheter or probe. The device features a coiled section labeled 'A' on the left, which is part of a larger assembly. Key components are labeled with reference numerals: 100, 102, 104, 106, 108, 110, 112, 114, 116, 118, 120, 122, 124, 126, 127, 128, and 125. The device is shown in a cross-section, revealing internal structures and a central lumen or channel.

The tail spring in a vibrator motor provides mechanical resonance as the motor continuously vibrates. Pfenning does not address or attempt to solve the problem of eliminating the tail spring in a vibrator motor, and is not pertinent to that problem. After all, relays do not vibrate continuously, and do not use mechanically resonating tail springs. Accordingly, withdrawal of Pfenning is respectfully requested.

Claim 16 stands rejected under § 103 on the basis of Pfenning and Soultanian. The previous § 102 rejection (mailed June 3, 2005) based on Soultanian was overcome because Soultanian does not disclose (or suggest) the hinge defined in the present claims, which the examiner concedes (September 29, 2005 office action, page 3). Without Pfenning, the present § 103 rejection must fall.

Even with Pfenning, the rejection fails because there is no motivation or suggestion to combine the references. There is no suggestion that the tail bracket in Soultanian could be eliminated by adapting structure from the relay described in Pfenning.

For these reasons, applicants respectfully request allowance.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By



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